THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 12178 Of 2005

27th January, 2006

Between:

B.Nishitha …Petitioner

A N D

1. The Commissioner for Government Examinations

Board of Secondary Education,

Chapel Road, Hyderabad and another

…Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 12178 Of 2005

O R D E R:

1. This writ petition has been filed seeking a direction more particularly one in the nature of writ of Mandamus directing the respondents to re-value the composite Telugu Paper I and English Paper of SSC of the Petitioners (R.No. 0161542)

2. Petitioner appeared Xth Class Public Examination with R.No. 0161542 in March, 2005. She secured 90 plus marks in four grand tests conducted by school authorities. She was expecting 580 marks out of 600. She had done exceedingly well in the examination. Results of Xth class examination were published on 30-4-2005. She secured the following marks.

I Lang	II Lang	Maths	Science	Social	III Lang	Total
78	96	100	98	98	89	559

3. According to her, she should have secured 19 out of 20 in Sanskrit and 79 out of 80 in Telugu, as per the assessment conducted by the school where she studied. In the grand test conducted on 11-03-2005 by the school, she secured 77 out of 80 marks in Composite Telugu. She made a representation to the Commissioner, Board of Secondary Education, Government of Andhra Pradesh requesting for Xerox copies of Composite Telugu and English answer scripts. But the authorities did not respond. Therefore, she made an application on 2.5.2005 for recounting of marks in Composite Telugu Paper 1 and English by paying necessary fee vide D.D.No. 945853, State Bank of Hyderabad, S.R.Nagar, Hyderabad. It is the contention of the petitioner that at the behest of certain vested interests, the marks secured by her in Composite Telugu and English papers have been deliberately reduced to see that she does not secure a high rank. For better understanding of the grievance of the petitioner, paras 10 and 11 of the writ affidavit need to be noted and they are :

> "*It is submitted that valuation of Composite Telugu Paper-1 has not been done as per the scheme prescribed or there has been an error at the time of tabulating the marks either by accident or design. The Petitioner submits that at the behest of certain vested interests, the marks secured by the petitioner in Composite Telugu and English papers have been deliberately reduced to see that the petitioner does not secure a high rank. The petitioner submits that this is at the behest of a rival school in collusion with the officials. The petitioner submits that totaling in tabulation is entrusted to third party and therefore, there is every possibility for tampering with the total. It is respectfully submitted that as per the assessment done by subject experts in these school on the basis of the Scheme osf*

evaluation, the petitioner ought to have secured 98 in Telugu, 92 in English, whereas she was awarded only 78 and 89. If the petitioner was awarded these marks, her total would have been 582, thereby she would have got 3rd Rank in the State. The petitioner has come to know and verily believe the same to be true that a rival management of the corporate schools gaining stealthy access of the code numbers could have managed the Examiner to deliberately reduce the marks. It is submitted that unless the answer sheets of the petitioner in Composite Telugu Paper and English are summoned and the Petitioner be permitted to see the same, the petitioner will suffer irreparable loss.

'It is respectfully submitted that the Respondents has the status of loco parentis and is expected to take all the care and caution that is necessary at the time of valuation of answer scripts and tabulation of the marks and is also expected to ensure that the valuation is fair, accurate and in terms of the key supplied. As there has been failure on the part of the Respondents in either valuation of answer scripts or tabulation of marks or both. The petitioner was not given rightful marks secured by her, thereby her assessment and evaluation of the examination taken by her had been adversely affected. The respondents failure to award marks secured by the petitioner on proper valuation/totaling/tabulation infringes the petitioner' right to education. The action of the Respondents in permitting such gross irregularity at the time of tabulation/evaluation and failure to take corrective steps on representation is arbitrary. Even though there is no provision for re-valuation in as much as the Respondents have released a press note for furnishing Xerox copies of the answer scripts on payment of prescribed fee. The same ought to have been supplied to the petitioner by the Respondents to dispel the allegation that there has been deliberate manipulation in the valuation of answer scripts or tabulation of marks. As already stated, the petitioner is extremely bright student and had put in long and tiring hour sat school and home and had taken several tests securing excellent marks and there is no possibility for the petitioner to have secured 78 marks. The improper valuation/tabulation has caused extreme anxiety and mental agony to the child. She is unable to accept that her hard work could not secure the result. She is saddened by the fact that all her hard work had gone in vain on account of manipulations and maneuvers by certain vested interests at the valuation/tabulation of marks. I apprehend that the petitioner may loose faith in the system and this would effect her performance in the intermediate course which is very crucial for determining her career. In those

circumstances, it is just and necessary in the interests of justice be pleased to direct the Respondents to produce answer scripts of the petitioner in Composite Telugu Paper-1 and English and permit the petitioner to verify the same to see that no sheets are removed or marks not properly totaled and if necessary cause re-valuation of the same by an independent expert agency.

4. Respondents filed counter affidavit. One E.Malla Reddy, Asst. Commissioner for Director of Government Examinations, A.P. Hyderabad has sworn to the counter affidavit. It is stated in the counter affidavit that the petitioner has already applied for recounting of marks in the subjects; first language and English and accordingly the valued answer scripts have been called for from the respective spot valuation camps. In the process of recounting, it is found that there is variation of 03 marks in first language paper-I (03T) and accordingly, benefit of '03' marks has been given to the petitioner and as a result, her marks in first language revised from 59 to 62. There is no change of marks on retotalling in English subject. Revaluation of answers scripts is impermissible as per G.O.Ms.No. 63, Edn, dated 16-1-1969 and Government Memo No. 1862-K2/74-1, dated 27-4-1974. S.S.C. examination was held in March, 2005 all over the State for nearly 10.72 lakh candidates by constituting 4749 examination centers. The Chief Superintendents dispatched the answer scripts to the allotted spot valuation camps after the conclusion of every day's examination. The Camp Officers received the answer scripts and stored them in the strong rooms by arranging them paper wise as well as center wise. The strong room incharge issued the answer script bundles that were picked up for the day's valuation as decided by Camp Officer/District Educational Officer to the respective Asst. Camp Officers. The Asst. Camp Officers in turn issued them to the Chief Examiners attached to him and the Chief Examiners in turn distributed the answer scripts among the Asst. Examiners attached to him. The Assistant Examiners valued the scripts. After valuation of answer scripts by the Assistant Examiners, the Special Assistants verified. The answer scripts on two aspects viz:- 1) Whether the totaling is correctly done. (2) Whether all the answers are valued and awarded marks. In case of any discrepancy the special assistants would bring the same to the notice of Assistant Examiner for affecting correction. Further, the Chief Examiner scrutinized 15% of the total scripts valued by the 6 Asst. Examiners attached to him. He would guide the Assistant Examiners in evaluation of answer scripts properly. Special

instructions were issued for the first time in March, 2005 to all the Chief Examiners to verify all the answer scripts that have been awarded 45 marks and above in all the papers other than second language and 90 in respect of 2nd language and put his stamp duly certifying that no over valuation has been taken place in the script. The evaluation system has been designed in such a way to ensure the confidentiality as well as speedy and accurate disposal to execute the job of timely publication of results so as to facilitate the candidates to gain admission in other States also so that they can enlarge their range of options in the very beginning of their academic career. The allegation that the marks secured by the petitioner have been deliberately reduced at the behest of the rival school in collusion with the officials is baseless. The department has not given any press note to the effect that the SSC students could get xerox copies of their answer sheets for academic year 2004-05 by paying prescribed fee. No representation has been received from the petitioner seeking Xerox copies of the Composite Telugu and English Paper. There is no provision of revaluation in the SCC scheme.

5. The petitioner moved WPMP No. 19853 of 2005 seeking direction to the respondents to produce answer scripts of two subjects i.e. Composite Telugu Paper-1 - first language (03T) and English Paper I and II (29E & 30E). This Court by order dated 23rd August, 2005 directed the 1st respondent to place on record the answer scripts of the petitioner.

6. Heard learned counsel for the petitioner and learned Government Pleader for School Education appearing for the Respondents.

7. Learned counsel appearing for the petitioner submits that the valuation of Composite Telugu Paper 1 and English papers of SSC of the petitioner bearing R.No. 0161542 is not properly made and therefore, necessary directions are given to the respondents to send those papers for revaluation. He further submits that brilliant career of the petitioner from Class VII suggests that the marks secured by her in the papers referred above are not only far below her expectations but also far below the marks secured by her in internal examination as well as in grand test conducted by the school authorities, which strengthens the doubt of the petitioner with regard to the valuation of her answer scripts made by the respondents authorities. The learned counsel during the course of the arguments took me to the marks secured by

the petitioner in the internal examination conducted by the school, where she studied. He also took me to answer scripts of the petitioner to show that the Examiner ought to have awarded full marks for certain questions. In support of his submission reliance has been placed on the decision of our High Court in ***A.Swapna Vs. Convenor, EAMCET-92, Andhra University, Visakhapatnam*** wherein it has been held that merely because a statutory rule is framed to the effect that request for retotalling or revaluation shall not be entertained, High Court's jurisdiction under Article 226 is not ousted and it can enquire into the correctness of the key answers or of the answers of the petitioners which are at variance with the key answers if the facts warrant such an enquiry.

8. Learned Government Pleader for School Education appearing for the respondents submits that valuation of the answer scripts of the petitioner has been done in accordance with the principles of valuation. He further submits that revaluation of the papers is not permitted under SSC Scheme approved in G.O.Ms.No.63, Edn., dated 16-1-1999. He refers Item XV(3) of the SSC Scheme which reads as follows:

> "*Applications for retotalling of the marks should be sent to the office of the Commissioner for Government Examinations within one month from the date of receipt of the Memorandum of marks by the students concerned. No revaluation will be undertaken under any circumstances."*

To buttress his submissions, reliance has been placed on the decision of Supreme Court in ***Maharashtra State Board of Secocndary and Higher Secondary Education Vs Paritosh Bhupesh Kurmarshethi*** and the decision of our High Court in ***the Government of Andhra Pradesh, rep. by its Secretary, Education Department Vs. N.Venkateswara Rao in Paritosh's case*** the Supreme Court held that it is in the public interest that the results of public examination when published should have some finality attached to them. If inspection, verification in the presence of the candidates and revaluation are to be allowed as of right, it may lead to gross and indefinite uncertainty, particularly in regard to the relative ranking etc., of the candidates besides leading to utter confusion on account of the enormity of the labour and time involved in the process.

In the second cited decision, Division Bench of this Court has held that if the Rules and regulations are statutory in character, their full vigour and force cannot be scuttled down by the Court either supplementing to them or subtracting from them

what has not been permitted by the statutory rules and regulations must be taken to have been prohibited. Whatever be the wisdom of the Court on the issue, it cannot assume the role of supplementing statutory rules and regulations.

9. The Director of Government Examinations issued guidelines to Camp Officers/D.E.O. with regard to conduct of spot valuation of SSC Public examinations. Guideline 12 reads as follows:

> "*Special Scrutiny of the Answer Scripts:*
>
> a. *The camp Officer shall provide One extra Special Assistant Examiner to each ACO to make Special Scrutiny of Answer Scripts @ 2 from each Assistant Examiner (i.e. One script in the Morning session and One in the after Noon Session) in order to check up mistakes/ omissions in the valued scripts and to reconcile.*
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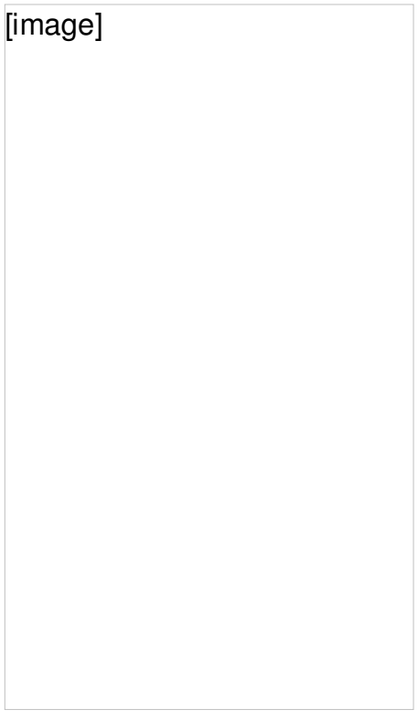
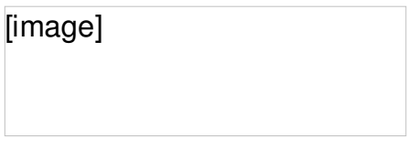
> b. *(i) A few cases of over valuation have been reported last year and disciplinary action have been taken on the persons who were involved in it. In order to avoid all such things Government have decided to follow strategy for adoption. Further if 45 or more than 45 marks are awarded out of 50 in all papers except second language and 90% marks or above in the second language and OSSC paper 1 & II, such of those scripts have to be scrutinized by the C.E's and they have to certify the marks awarded are correct and there is no over valuation or under valuation.*
>
> *ii) The camp officer has to get the rubber stamps prepared as follows and provide it to all C.E.'s to give a certification about correctness of valuation in respect of candidate scoring 90% and above ' Certified that no over valuation is found on special scrutiny' Signature of C.E.".*

10. The writ petitioner contends that her answer scripts of the papers stated above have not been properly evaluated. As per the writ affidavit, twin reasons have been stated by her; firstly, marks awarded to her have been deliberately reduced to see that she does not secure higher rank at the behest of the rival school in collusion with the officials and secondly, since she secured high marks in the internal examination and grand tests, she should have secured almost all same marks in the

public examination also. With regard to the first ground, the petitioner thoroughly failed to place any material on record to substantiate it. With regard to second ground, it is urged by the learned counsel for the petitioner that the examiner has not correctly awarded marks and in respect of certain answers in the answer sheet, the marks initially awarded came to be reduced and thus the papers are required to be revalued. He strenuously contends that in respect of first question in Composite Telugu Paper 1, the petitioner has to get full marks i.e. six marks since the answer written by her is perfectly correct. The first question in Composite Telugu Paper-1 along with the answer given by the petitioner reads as follows:


[image]


[image]

11. If the answer written by the petitioner is compared with the answer in standard test book, as furnished by the petitioner, there are more than three mistakes and they are:- For the word " " the petitioner answered as " " But the answer as per the standard book furnished by the Petitioner herself is Likewise, the petitioner has answered the meaning of " " But as per the answer in the standard book furnished by the petitioner herself means . The petitioner has also given meaning of as but the answer as per the standard text book furnished by the petitioner herself is The Examiner awarded five marks out of six, since the answer contains more than three mistakes, the Examiner is justified in awarding five marks.

Learned counsel for the petitioner submits that themarks secured by the petitioner in English paper have been reduced in rechecking without their being any justification. He took me to the answer scripts of the petitiner and referred the answers written by the petitioner to question Nos. 1,2,3,5,6,7 and 37. Initially the answer sheets were evaluated by the examiner and thereafter as was done in case of all examinees who secured more than 45 out of 50 they were rechecked and in the process of rechecking over valuation made by the examiner was rectified.

English answer sheets came to be rechecked as was done in the case of all examinees who scored more than 45 out of 50. In ***Paritosh's case,*** the Supreme court observed as follows:

> *"As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working for the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded".*

12. It is explicit from the record that the answer of scripts (English paper) of the

Petitioner have been checked and rechecked by the examiners and therefore, the question of revaluation does not arise.

13. In the result, I find the writ petition is devoid of merit and accordingly, the same is hereby dismissed. No order as to costs.

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Justice B.Seshasayana Reddy

27th January, 2006.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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